

D I C K S T E I N   S H A P I R O   M O R I N   &   O S H I N S K Y   L L P

2101 L Street NW • Washington, DC 20037-1526

Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: (202) 420-3631

E-Mail Address: KerstingA@dicksteinshapiro.com

June 29, 2006

**By Hand & ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, NE  
Suite 110  
Washington, D.C. 20002  
Attn: Video Division, Media Bureau

Re: Request for Waiver  
KVLV-DT, Fargo, North Dakota (Facility ID 61961)  
MB Docket No. 03-15

Dear Ms. Dortch:

North Dakota Television License Sub, L.L.C. ("NDTV"), permittee of digital television station KVLV-DT, Fargo, North Dakota, hereby requests a waiver of the July 1, 2006 "use-it-or-lose-it" deadline and its certification that it would construct digital facilities that fully replicate the April 1997 NTSC Grade B service area for KVLV-TV (sometimes referred to hereinafter as the "Station").

On November 5, 2004, NDTV filed a Form 381 Pre-Election Certification in which it certified, *inter alia*, that it would operate KVLV-DT based on its allotted replication facilities. See File No. BCERT-20041105AXV. However, in due course it was determined that the cost of achieving that replication would be exorbitant and not warranted by the circumstances.

On August 5, 2005, NDTV obtained a Special Temporary Authorization (File No. BDSTA-20050721AFQ) (the "STA") to operate with lower powered facilities than those authorized in the Station's digital construction permit (File No. BMPCDT-20040510AAP). Those facilities serve approximately 500 fewer people than the Station's allotted replication facilities. In order to serve those additional 500 persons within KVLV-DT's noise-limited contour, NDTV would need to purchase and install a new omni-directional antenna, the cost of which would exceed \$200,000. That substantial expense does not justify the minimal gain in population coverage, especially when many, if not most, of those viewers currently receive KVLV-TV's signal through cable and DBS. NDTV has therefore decided to continue to operate KVLV-DT with the facilities authorized by the Station's existing STA (File No. BEDSTA-20060201BKL) and has filed an application (File No. BMPCDT-20060629AFS) (the

“Application”) seeking to modify the Station’s existing construction permit to authorize the operation of those facilities on a permanent basis.

As a practical matter, NDTV has already completed construction of KVLV-DT’s digital facilities (and is operating them under the STA). However, NDTV will not be in position to file a covering license application until after the Application is granted (which will obviously be after July 1, 2006).

In view of the foregoing, NDTV requests a waiver of the July 1, 2006 “use-it-or-lose-it” deadline and its pre-election certification that it would construct digital facilities that fully replicate KVLV-TV’s April 1997 NTSC Grade B service area.

Very truly yours,

DICKSTEIN SHAPIRO LLP  
1825 Eye Street, NW  
Washington, DC 20006-5403  
Tele: (202) 420-2200  
Email: KerstingA@dicksteinshapiro.com

Attorneys for  
North Dakota Television License Sub, L.L.C.

By:   
Andrew S. Kersting

cc: Shaun Maher, Esq. (FCC) (by email)